

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:)	Chapter 11
)	
HARLOW N. HIGINBOTHAM,)	Case No. 18 B 31185
)	
Debtor.)	Hon. LaShonda A. Hunt
)	
)	Hearing Date & Time:
)	February 28, 2019 at 11:00 a.m.

NOTICE OF MOTION

TO: See Attached Service List

PLEASE TAKE NOTICE THAT on February 28, 2019, at 11:00 a.m., I shall appear before the Honorable LaShonda A. Hunt, or any other judge sitting in her stead, in Room 719, United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, or any other Judge sitting in her place or stead, and request a hearing on the Motion To Amend Order Granting in Part Motion of Wipaporn Teekhungham and the Parties' Minor Children for Relief from Stay, a copy of which is herewith served upon you.

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, hereby state that pursuant to Section II, B, 4 of the Administrative Procedures for the Case Management/Electronic Case Filing System, I caused a copy of the foregoing NOTICE OF MOTION and MOTION to be served on all persons set forth on the attached Service List identified as Registrants through the Court's Electronic Notice for Registrants on the 22nd day of February, 2019.

/s/ Monica C. O'Brien

Monica C. O'Brien

Gregory K. Stern (Atty. ID #6183380)
Monica C. O'Brien (Atty. ID #6216626)
Dennis E. Quaid (Atty. ID #2267012)
Rachel S. Sandler (Atty. ID #6310248)
53 West Jackson Boulevard
Suite 1442
Chicago, Illinois 60604
(312) 427-1558

SERVICE LIST

Registrants Served Through The Court's Electronic Notice For Registrants

Patrick Layng, United States Trustee
219 South Dearborn Street
Suite 873
Chicago, Illinois 60604

Bradley S. Block
318 West Adams Street
17th Floor
Chicago, Illinois 60606

Deborah Ebner
William J. Factor
Jeffrey K. Paulsen
105 West Madison Street
Suite 1500
Chicago, Illinois 60602

Nathan Q. Rugg
Barack Ferrazzano Kirschbaum & Nagelberg LLP
200 West Madison Street
Suite 3900
Chicago, Illinois 60606

Shira R. Isenberg
Bianca E. Ciarroni
Freeborn & Peters LLP
311 South Wacker Drive
Suite 3000
Chicago, Illinois 60606

Sean T. Scott
Joshua R. Gross
Mayer Brown LLP
71 South Wacker Drive
Chicago, Illinois 60606

N. Neville Reid
Brian J. Wilson
Fox Swibel Levin & Carroll LLP
200 West Madison Street, Suite 3000
Chicago, Illinois 60606

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:)	Chapter 11
)	
HARLOW N. HIGINBOTHAM,)	Case No. 18 B 31185
)	
Debtor.)	Hon. LaShonda A. Hunt
)	
)	Hearing Date & Time:
)	February 28, 2019 at 11:00 a.m.

**MOTION TO AMEND ORDER GRANTING IN PART
MOTION OF WIPAPORN TEEKHUNGAM AND THE
PARTIES' MINOR CHILDREN FOR RELIEF FROM STAY**

NOW COMES Harlow N. Higinbotham, Debtor and Debtor in Possession, by and through his attorneys Gregory K. Stern, Monica C. O'Brien, Dennis E. Quaid and Rachel S. Sandler and in support of his Motion To Amend Order Granting in Part Motion of Wipaporn Teekhungam and the Parties' Minor Children for Relief from Stay, states as follows:

1. The Debtor brings the instant Motion because an issue has arisen in the State Court Case as to whether the scope of the relief provided in the Order Granting in Part Motion of Wipaporn Teekhungam and the Parties' Minor Children for Relief from Stay (Docket No. 55) (the "Adequate Protection Order") allowed the State Court to adjudicate the Debtor's request for 304(a) findings.

2. On November 5, 2018, the Debtor filed a Voluntary Petition for relief under Chapter 11 (the "Petition") of the Bankruptcy Code (the "Code").

3. Prior to the filing of the instant case, on September 14, 2018, a Judgment was entered against the Debtor and in favor of Wipaporn Teekhungam and the Parties' Minor Children (collectively referred to as the "Support Creditors") in the state court case more commonly known as Wipaporn Teekhungam, et al., v. Harlow N. Higinbotham, Case No. 11 D 6475 (the "State Court Case"), ordering retroactive child support and the establishment of 503(g) trusts for each of the minor children (the "September 2018 Judgment").

4. Thereafter, on September 25, 2018, the Debtor filed a Motion for A Supreme Court Rule 304(a) Finding (the “304(a) Motion”) in the State Court Case which would allow the Debtor to take an appeal from the September 2018 Judgment, notwithstanding the pendency of several other matters in the State Court Case. The Debtor stating further that the 304(a) Motion remained pending in the State Court Case at the time of the filing of the Petition.

5. On January 11, 2019, this Court entered the Adequate Protection Order which provided, in part, for the modification of the automatic stay to allow the State Court Case “to proceed on all matters relating to the entry or modification of child support orders, including any resulting appeals, and the determination of any request for sanctions against the debtor.”

6. On January 29, 2019, a hearing was held in the State Court Case which included, among other things, a continued hearing on the 304(a) Motion at which time a copy of the Adequate Protection Order was provided to the State Court Judge. In questioning whether the Adequate Protection Order permitted the adjudication of the 304(a) Motion, the following dialogue occurred:

“THE COURT: I would suggest that if we didn't have this freeze in the bankruptcy court, this would already be up in the appellate court and we could get them all resolved.

I noticed answers coming up in pleadings in the bankruptcy court that you are saying -- not you because there is six other lawyers on that case that, of course, we can't move ahead with this until the appellate court rules on it. But we can't send it to the appellate court because they are in bankruptcy court. Is that Catch-22?

MR. ELSTER¹: No. The bankruptcy court entered no -- that's why we are here today. The bankruptcy court entered a notice saying we can proceed. We can't send this up to the appellate court because people keep on filing motions and –

THE COURT: Sir, do you want me to read that section to you again? Are you saying no?

MR. ELSTER: What section?

THE COURT: Where your client's counsel in the bankruptcy court indicated that nothing could be resolved until the appellate court rules on it. It is not in the appellate court because of the bankruptcy.

¹ Mr. Elster represented the Debtor in the State Court Case.

MR. ELSTER: No, Judge. I think it is not in the appellate court because there is still pending claims in this matter that Your Honor has not granted or requested 304 –

THE COURT: Really? Well, I think that I was willing to do that at the time I learned about the bankruptcy, I would have given you the 304 language so you could go to the appellate court. But I am not going to do anything now without the bankruptcy judge.”

8. The State Court Judge indicated that the 304(a) Motion would be continued for further argument on February 15, 2019. However, the 304(a) Motion was not resolved at the February 15, 2019, hearing but was again continued until March 5, 2019.

9. Pursuant to Rule 60 of the Federal Rules of Civil Procedure, made applicable through Rule 9024 of the Federal Rules of Bankruptcy Procedure, the Debtor is requesting that the Adequate Protection Order be amended to add the following language: “the automatic stay is modified to allow the state court case known as In re parentage of Wipaporn Teekhungam, individually and on behalf of [A.N., A.N. and A.N.], case no. 11-D-6475, to proceed with the prosecution of the Harlow N. Higinbotham's Motion for A Supreme Court Rule 304(a) Finding.”

WHEREFORE, Harlow N. Higinbotham, Debtor and Debtor in Possession herein, requests that the Court enter an order amending the Adequate Protection Order as provided herein; and, for such other further relief as is just and proper.

By: /s/ Monica C. O'Brien
Debtor's Attorney

Gregory K. Stern (Atty. ID #6183380)
Monica C. O'Brien (Atty. ID #6216626)
Dennis E. Quaid (Atty. ID #2267012)
Rachel S. Sandler (Atty. ID #6310248)
53 West Jackson Boulevard
Suite 1442
Chicago, Illinois 60604
(312) 427-1558